



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Morvared "Mora" Namdarkhan, Esq.  
5907 Park Lane  
Dallas, TX 75225

NOV 24 2015

RE: MUR 6810

Dear Ms. Namdarkhan:

On April 29, 2014, the Federal Election Commission notified your clients, Michael Jeffrey Turner, and Mike Turner for Congress and Kyle Walton Denham in his official capacity as treasurer ("the Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On November 20, 2015, based upon the information contained in the complaint, and information provided by your clients, the Commission decided to dismiss the allegation that Michael Jeffrey Turner and the Committee violated 52 U.S.C. § 30103(a), and that the Committee violated 52 U.S.C. § 30104(a). Accordingly, the Commission closed its file in this matter on November 20, 2015.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Daniel A. Petalas  
Acting General Counsel

A handwritten signature in black ink, appearing to be "D. Petalas", written over the typed name and title.

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

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RESPONDENTS: Michael Jeffrey Turner  
Mike Turner for Congress  
and Kyle Walton Denham as Treasurer

## I. INTRODUCTION

This matter was generated by a complaint filed by Chad Lee Choat on April 23, 2014, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Michael Jeffrey Turner and Mike Turner for Congress and Kyle Walton Denham in his official capacity as treasurer. It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Factual Background

The Complainant in this matter, Chad Lee Choat, alleges that Michael Jeffrey Turner<sup>1</sup> and his authorized committee, Mike Turner for Congress and Kyle Walton Denham in his official capacity as treasurer (the "Committee"), failed to timely file a Statement of Organization and failed to file a 2014 April Quarterly Report. Compl. at 1. The Complaint states that Turner became a candidate on March 6, 2014, when he officially announced his candidacy in a press release carried by the media and posted on his website, and that Turner subsequently filed his Statement of Candidacy with the Commission on March 13, 2014. The Complaint alleges that the Committee did not file a Statement of Organization until April 15, 2014, which resulted in

<sup>1</sup> Michael Jeffrey Turner was a candidate for Oklahoma's 5th Congressional District in the 2014 Republican primary election. Turner lost the June 24, 2014 primary election.

1 "more than 1½ months where there was no public disclosure" concerning the Committee or its  
2 officers. *Id.* In addition, the Complaint alleges that the Statement of Organization "appeared to  
3 be backdated to March 7, 2014." *Id.*

4 The Complainant also alleges that the Committee failed to file its 2014 April Quarterly  
5 Report. *Id.* at 1-2. The Complaint cites news accounts that indicate the Committee raised at  
6 least \$500,000 and spent approximately \$170,000 during the time period at issue,<sup>2</sup> and alleges  
7 that the Committee did not file any disclosure reports supporting this activity. *Id.* The  
8 Complaint contends that the failure of the Committee to timely register with the Commission and  
9 its failure to file disclosure reports resulted in campaign activity being withheld from the public.  
10 *Id.*

11 In response, the Committee acknowledges that its Statement of Organization was not  
12 timely filed, but claims that it was the result of clerical error, and that the Committee took  
13 immediate action to rectify the error as soon as it was discovered. Resp. at 1. The Committee  
14 explains that, "Due to a clerical error, the FEC Form 1 Statement of Organization was  
15 erroneously not mailed. The Form 1 was not backdated as alleged in the complaint. As soon as  
16 this clerical error was noticed, we immediately filed the Form 1 on April 15<sup>th</sup> 2014."<sup>3</sup> *Id.*

17 The Response also contends that the Committee attempted to file its 2014 April Quarterly  
18 Report by submitting a paper copy that was dated and mailed to the Commission on April 15.

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<sup>2</sup> According to the Committee's 2014 Amended April Quarterly Report, it had raised \$253,400 and expended \$185,388 during the reporting period. See Committee's 2014 Amended April Quarterly Report at 2, filed June 21, 2014.

<sup>3</sup> The FEC Envelope Replacement Page for Incoming Documents notes that the document was "Hand Delivered" on April 15, 2014. See Statement of Organization, filed Apr. 15, 2014.

1 2014. *see id.* at Attach. 6. Matthew B. Flies, Esq. Aff. (June 3, 2014). The Committee claims  
2 that it was not able to file an electronic version of the 2014 April Quarterly Report, until it  
3 received an email notification from the Commission acknowledging receipt of its Statement of  
4 Organization and assigning the Committee an identification number and password. *Id.* at 1; *see*  
5 *also id.* at Attach. 4. Email from FEC to Mike Turner (Apr. 22, 2014); Attach. 5. Email from  
6 FEC to Mike Turner (Apr. 21, 2014).<sup>4</sup> *Id.*

7 **B. Legal Analysis**

8 The Act provides that a candidate for Federal office “shall designate in writing a political  
9 committee . . . to serve as the principal campaign committee of such candidate” and states that  
10 “[s]uch designation shall be made no later than 15 days after becoming a candidate.” 52 U.S.C.  
11 § 30102(e)(1). The Act further states that a candidate’s authorized campaign committee “shall  
12 file a statement of organization no later than 10 days after designation pursuant to 52 U.S.C.  
13 § 30102(e)(1).” 52 U.S.C. § 30103(a). Additionally, the authorized committee of a candidate is  
14 required to file disclosure reports, which include all receipts and disbursements, on a quarterly  
15 basis “no later than the 15<sup>th</sup> day after the last day of each calendar quarter,” in addition to pre-  
16 election reports and post-general election reports, in any calendar year during which there is a  
17 regularly scheduled election. 52 U.S.C. § 30104(a)(1)-(2).

18 The available information indicates that the Committee failed to timely file its Statement  
19 of Organization pursuant to 52 U.S.C. § 30103(a). The Committee also appears to have failed to

<sup>4</sup> The paper copy of the 2014 April Quarterly Report is listed in the FEC disclosure database as  
“Miscellaneous Report to FEC,” with a receipt date of April 24, 2014. *See* Miscellaneous Report to the FEC, filed  
Apr. 24, 2015. The FEC Envelope Replacement Page for Incoming Documents notes that the document arrived by  
“USPS First Class Mail” and was postmarked April 15, 2014. *Id.* The electronic version of the 2014 April  
Quarterly Report was received by the Commission on April 22, 2014. *See* 2014 April Quarterly Report, filed Apr.  
22, 2014.

1 timely file its 2014 April Quarterly Report as required by 52 U.S.C. § 30104(a)(1)-(2).  
2 However, the Committee claims that the failure to file the Statement of Organization was due to  
3 a clerical error and that it made an effort to correct the error as soon as it was discovered.  
4 Additionally, it appears the Committee made an effort to timely file its 2014 April Quarterly  
5 Report by mailing it to the Commission by regular First Class Mail on April 15, 2014.<sup>5</sup> The  
6 Committee promptly filed its report electronically upon receiving its committee identification  
7 number and password.

8 For these reasons, the Commission exercises its prosecutorial discretion, pursuant to  
9 *Heckler v. Chaney*, 470 U.S. 821 (1985), and dismisses the allegations that Michael Jeffrey  
10 Turner and Mike Turner for Congress and Kyle Walton Denham in his official capacity as  
11 treasurer violated the Act and Commission regulations.

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<sup>5</sup> Had the Committee selected a form of mail service with delivery confirmation instead of regular First Class Mail, its filing would have been deemed timely. See 52 U.S.C. § 30104(a)(5). In this instance, the Committee indicated it was prevented from electronically filing its 2014 April Quarterly Report because it had not first obtained a committee identification number and password.